

CHAPTER 1

GENERAL PROVISIONS

Section 101. How Code Designated and Cited

The ordinances embraced in the following chapters and sections shall constitute and be designated as “The Code of Ordinances of the Town of Garrett Park” and may be so cited. The Code may also be cited as “Garrett Park Town Code.”

Section 102. Definitions and Rules of Construction

In the construction of this Code and of all ordinances, the following definitions and rules shall be observed, unless such definitions and rules would be inconsistent with the manifest intent of the Town Council:

Business entity. The term “business entity” as used herein shall be defined in accordance with the provisions of the Election Law Article, Section 14-101(c) of the Annotated Code of Maryland, 2010 Replacement Volume, as amended.
(Ord. 2011-02: Adopted 03/14/2011: Effective 04/04/2011)

Bond. When a bond is required, an undertaking in writing shall be sufficient.

Charter. The word “Charter” shall mean the Charter of the Town of Garrett Park.

Code Enforcement Official. The Mayor or person appointed by the Mayor, with the approval of the Town Council, whose duty shall be to issue citations, as provided in Chapter 9 of this Code, to any person or persons alleged to be committing an infraction.

Council. The duly elected Council of the Town of Garrett Park.

County. The words “the County” or “this County” shall refer to Montgomery County, Maryland.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Saturday, Sunday or a legal holiday, that shall be excluded.

Joint Authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and Proprietor. The words “keeper” and “proprietor” shall mean and include any person, whether acting by himself or herself as or by a servant, agent or employee.

Mayor. The duly elected Mayor of the Town of Garrett Park.

Month. The word “month” shall mean a calendar month.

Number. Words used in the singular include the plural and the plural includes the singular number.

Oath. The word “oath” shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

Open Porch. An open porch may or may not include a roof, and, except for support structures, the area above the railing height required by Montgomery County shall be open to the air, excluding up to 15 inches of decorative trim, and at least fifty (50) per cent of the area below the railing must be open to the air, and the porch shall not be enclosed by material of any type, including latticework or screening. (Ord. 1999-03, adopted 09/13/1999)

Owner. The word “owner,” applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word “person” shall include a corporation, company, partnership, association, society, or other entity as well as a natural person but does not include a government agency.

Property. The word “property” shall include real and personal property.

Sidewalk. A path or way, paved or unpaved, whether publicly or privately owned, intended for public use by pedestrians.

Signature or Subscription. Signature or subscription includes a mark when the person cannot write, his name being written near it and witnessed by a person who writes his own name as witness.

State. The words “the state” or “this state” shall be construed to mean the State of Maryland.

Street. The word “street” shall include any public ways, roads, highways, and avenues within the Town.

Tenant, Occupant. The words “tenant” and “occupant,” applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Time. Words used in the past or present tense include the future as well as the past and present.

Town. The words “the town” or “this town” shall mean the Town of Garrett Park, in the County of Montgomery and State of Maryland, except as otherwise provided.

Section 103. Catchlines of Sections

The underlined catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the sections and shall not be deemed as any part of such sections, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

Section 104. Effect of Repeal of Ordinances

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offence committed under the ordinance repealed.

Section 105. Provisions Deemed Continuations of Existing Ordinances

The provisions appearing in this Code, so far as they are the same in substance as ordinances existing at the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Section 106. Severability

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and words of this Code are severable, and if any word, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the Town Council without the incorporation in this Code of any such unconstitutional or invalid word, clause, sentence, paragraph or section.

Section 107. General Penalty, Continuing Violations

Violation of any provision of this Code or of any ordinance shall be a misdemeanor, unless specifically declared to be a municipal infraction, and may be punished by a fine not exceeding \$1,000. Each day any violation of any provision of this Code, or any ordinance, resolution, rule, regulation or order of the Town is continued shall constitute a separate offence.

Section 108. Exemption from County Ordinances

Pursuant to the authority conferred by Article 23A of the Annotated Code of Maryland and by Section 2-96 of the Montgomery County Code, the Town of Garrett Park hereby exempts itself from all legislation heretofore or hereafter enacted by Montgomery County, Maryland relating to any subject with respect to which the Town of Garrett Park

has a grant of legislative authority provided either by public general law or the charter of the Town of Garrett Park.

Section 109. Exception to General Exemption

The following chapters of the Montgomery County Code 1984, as amended and future amendments to these same chapters when adopted by Montgomery County, are exceptions to the above general exemption and shall be applicable within the Town of Garrett Park.

<u>CHAPTER</u>	<u>TITLE</u>
3	Air Quality
3A	Alarms
5	Animal Control
7	Bicycles
8	Buildings
8A	Cable Communications
10	Day-Care Centers
11	Consumer Protection
15	Eating and Drinking Establishments
17	Electricity
18	Elm Disease
19	Erosion and Sediment Control
21	Fire and Rescue Services
22	Fire Safety Code
23A	Group Residential Care Facilities
24	Health and Sanitation
25	Hospitals, Sanitariums, Nursing, and Care Homes
26	Housing and Building Maintenance Standards
27	Human Relations and Civil Liberties
27A	Individual Water Supply and Sewage Disposal Systems
30A	Montgomery County Municipal Revenue Program
30B	Massage Establishments and Massage Technicians
32-17A	Urination and Defecation in Public [Ord. 2005-05; 11/14/05]
34	Plumbing and Gas Fitting
36	Pond and Excavation Safety Standards
38A	Radio, Television and Electrical Appliance Installation and Repair
39	Rat Control
40	Real Property
44	Schools and Camps
44A	Secondhand Personal Property
45	Sewers, Sewage Disposal, and Drainage
46	Slaughterhouses
47	Vendors [Ord. 2004-04; 10/11/2004]
51	Swimming pools
52	Taxation

Section 110. General Exceptions to Exemption

Notwithstanding any of the above, County legislation shall apply where:

(a) Legislation is enacted by the Montgomery County Council sitting as a Board of Health for Montgomery County;

(b) Legislation is enacted by Montgomery County involving County revenue or taxation pursuant to Tax -- Property Article, 1994, the Annotated Code of Maryland, as amended; and

(c) The General Assembly, by express provision of Public Law, so provides.

Section 111. County Enforcement of Town Laws

Nothing contained in this Chapter shall limit or otherwise affect the Town's authority, whether exercised previously or in the future, to request the enforcement of Town legislation in whole or in part by Montgomery County and to enter into agreements providing for the same.

Section 112. General and Administrative

(a) Checks. No check for the expenditure of funds by the Town of Garrett Park shall be signed by a Town official so authorized until the payee and amount of payment have been specified on the check, and a Town official has either verified that the goods or services for which payment is being rendered have been satisfactorily received or supplied or that the check is for advance payment for such services or supplies. Violation of the requirements of this paragraph shall be a municipal infraction, punishable by a fine of \$50 for each check issued over the signature of the Town official in violation of this paragraph.

(b) Money Orders. No official of the Town of Garrett Park shall purchase, or authorize to be purchased, a money order utilizing Town funds. Violation of the requirements of this paragraph shall be a municipal infraction, punishable by a fine of \$50 for each money order purchased or authorized by the Town official in violation of this paragraph.

[Ord. 1998-01; 02/09/1998]

Section 113. Garrett Park Archives and Archives Committee

(a) Statement of Policy

(1) History. For many years, the Town, through its Clerk-Treasurers and interested residents, has collected documents, maps, pictures, memorabilia, and many other items relevant to the long and colorful history of the Town and its residents. The Town recognizes the unique resource

that these materials provide and wishes to ensure their continued safekeeping, encourage their expansion, and make the collection more accessible to the public while protecting its integrity.

(2) Purpose. To formalize the establishment of the Garrett Park Town Archives and to organize the Garrett Park Archives Committee.

(b) The Garrett Park Town Archives

(1) There is hereby created the Garrett Park Town Archives, hereinafter known as the Archives.

(2) The Archives shall consist of documents, maps, pictures, memorabilia, and other items of an historic interest, as well as such public records that Maryland law requires the Town to preserve or that may be generated in the governance of the Town.

(c) The Committee

(1) There is hereby created a Garrett Park Archives Committee, to be named "The Barbara Shidler Archives Committee", hereinafter known as the Committee.

(2) The Committee shall consist of no more than seven (7) citizen members, the Clerk-Treasurer, and a member of the Council. The Mayor shall be an *ex officio* member of the Committee.

(3) The Mayor shall appoint, with the approval of the Council, members of the Committee from among Town residents who have lived in Garrett Park for at least one year and who are qualified by special interest, knowledge, experience or training in such fields as library science, records conservation, database compilation and maintenance, historic preservation, oral history, or complementary disciplines. If feasible, one member of the Archives Committee shall be drawn from the membership of the Historic Preservation Committee established by Section 400 of this Code. Members shall be appointed for a term of five years, except that in making initial appointments, some appointments shall be for less than five years so that no more than two (2) terms shall have simultaneous expiration dates. The Mayor shall appoint a Council member, and that member's term on the Committee shall be concurrent with the member's Council term. Vacancies on the Committee that are created by the resignation or other discontinuation of a member prior to the expiration of the member's term shall be selected by the Mayor, with the advice and consent of the Council, for the unexpired term of the replaced member. A member may be removed for failure to attend meetings regularly or misconduct.

(4) The members of the Committee shall serve without compensation, but they may be reimbursed for actual expenses incurred in the performance of their duties, provided such expenses are approved by the Council.

(5) The Town shall provide in its annual budget such funds as may be required for the operation of the Committee.

(6) The Chair and Vice-Chair shall be elected by the members of the Committee. The Committee may adopt such procedural rules as may be necessary or appropriate for the conduct of its business. The Committee may create a category of adjunct Committee membership to be comprised of no more than three persons, not residents of Garrett Park, whose participation on the Committee, by virtue of academic, professional or other qualification in the fields specified in Section 113 (c)(3), above, benefits the Committee and Town.

(d) Powers of the Committee

(1) The Committee, in conformity with the policy set forth in this Section of the Code, shall advise the Council with respect to all issues involving or affecting the Town Archives.

(2) The Committee may, from time to time, undertake educational initiatives to advance the understanding and appreciation of the Archives and on other historical matters of general interest in the Town. (Section 113: Ord. 2010-03; 07/12/2010)